

REMARKS

Claims 1-4, 9-21, 24, 26, and 47-48 were pending in the application. By virtue of this response, claims 1-4, 9-21, 24, 26, and 47-48 are canceled and new claims 49-53 have been added. Support for the new claim can be found throughout the specification, e.g., at pp. 24, 26, and 85-103 (Examples). As such, no new matter has been added. Accordingly, claims 49-53 are currently under consideration.

With respect to all amendments and cancelled claims, Applicants have not dedicated or abandoned any unclaimed subject matter and, moreover, have not acquiesced to any rejections and/or objections made by the Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation, continuation-in-part, and/or divisional applications.

Claim Rejections under 35 U.S.C. § 112

Claims 1-4, 9-21, 24, 26 and 47-48 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an isolated immunostimulatory oligodeoxynucleic acids consisting of SEQ ID NOs:18, 38 and 59, wherein the immunostimulatory polynucleotide is fully modified phosphorothioate oligodeoxynucleotides and said immunostimulatory oligodeoxynucleic acids increase IFN-gamma or IFN-alpha and compositions comprising such and wherein the immunostimulatory nucleic acid is optionally complexed with cationic poly(lactic acid, glycolic acid) microspheres, it does not allegedly reasonably provide enablement for immunomodulatory nucleic acids, immunostimulatory nucleic acids in general, and biodegradable microcarriers in general, or oligoriboxynucleotides, immunostimulatory sequences linked to cationic poly(lactic acid, glycolic acid) by any means or biodegradable carriers in general is maintained for reasons made of record in the Office Action mailed 8-1-05.

In the interest of expediting prosecution, Applicants have canceled claims 1-4, 9-21, 24, 26 and 47-48, thus rendering this rejection moot. Applicants note that new claims 49-53 have been added, which recite ISS from the working examples disclosed in the specification.

In view of the foregoing, Applicants respectfully request that the Examiner withdraw this rejection.

Claim Rejections under 35 U.S.C. § 102

Claims 1-3, 15-19, 26, 48 stand rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Doucette-Stamm et al (US Patent No. 6800744 ('744 patent), issued October 5, 2004 with priority to provisional document 60/051,533 filed July 2, 1997) is maintained for reasons made of record in the Office action mailed August 1, 2005.

In the interest of expediting prosecution, Applicants have canceled claims 1-3, 15-19, 26, 48, thus rendering this rejection moot.

In view of the foregoing, Applicants respectfully request that the Examiner withdraw this rejection.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 377882001800. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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